

**This document consists of proposed amendments to Campaign Finance Rules as originally published by the Secretary of State on October 22, 2003, plus further proposed changes as indicated by underlining, strike-out, and a vertical line in the right-hand margin.**

**Note: At the rulemaking hearing on December 2, 2003, the Secretary of State will consider amendments to the Campaign and Political Finance Rules proposed by any person to implement Article XXVIII.**

## **Proposed Amendments 10/22/2003 (Revised 11/26/2003)**

### **SECRETARY OF STATE**

### **RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

[8 CCR 1505-6]

#### **Rules**

- ~~21.~~ 1. Definitions
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#### ~~21.~~ 1. **Definitions**

- ~~21.1~~ 1.1 “Contribution in support of the candidacy” shall include all contributions given directly or indirectly for a specific public office, including a person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next ~~of~~ OR any subsequent election cycle. [Article XXVIII, Section 2(2)]

- 1.2 “CONTRIBUTION” DOES NOT INCLUDE AN ENDORSEMENT OF A CANDIDATE OR AN ISSUE BY ANY PERSON.

- 1.3 “CONTRIBUTION” DOES NOT INCLUDE A DONATION OF MONEY OR ANYTHING OF VALUE TO AN ELECTED OFFICIAL FOR THE EXPRESS PURPOSE OF OFF-SETTING ANY EXPENSES THAT ARE DIRECTLY RELATED TO SUCH PERSON'S OFFICIAL DUTIES AS AN ELECTED OFFICIAL, IF SUCH DONATION IS USED FOR SUCH PURPOSE AND NOT IN DIRECT FURTHERANCE OF SUCH OFFICIAL'S CANDIDACY FOR OFFICE, **AND IF SUCH DONATION IS NOT DEPOSITED INTO THE OFFICIAL'S CANDIDATE COMMITTEE ACCOUNT**, REGARDLESS OF WHETHER SUCH DONATION IS REPORTED OR REPORTABLE UNDER THE PUBLIC OFFICIAL DISCLOSURE LAW, PART 2 OF ARTICLE 6 OF TITLE ~~424~~, C.R.S.

*Comment: Federal election rules contain more detailed provisions concerning office accounts. See 11 C.F.R. section 113.*

- 1.4 “CORPORATION”, AS USED IN ARTICLE XXVIII ONLY, MEANS A DOMESTIC CORPORATION INCORPORATED UNDER AND SUBJECT TO THE “COLORADO BUSINESS CORPORATION ACT”, ARTICLES 101 TO 117 OF TITLE 1, C.R.S., A DOMESTIC NONPROFIT CORPORATION INCORPORATED UNDER AND SUBJECT TO ARTICLES 121 TO 137, C.R.S., OR ANY CORPORATION INCORPORATED UNDER AND SUBJECT TO THE LAWS OF ANOTHER STATE OR FOREIGN COUNTRY.
- ~~21.2~~ 1.5 “Foreign Corporation”, as used in Article XXVIII, Section 3 (12) (c), means a corporation organized under the laws of another country. The term does not apply to a corporation organized under the laws of another state.
- 1.6 “ISSUE COMMITTEE” DOES NOT INCLUDE A MARRIED COUPLE.
- ~~21.3~~ 1.7 “Person”.
- a. A “natural person” is a human being.
- b. For the purpose of Article XXVIII, Section 7, “person” shall mean any natural person.
- ~~21.4~~ 1.8 “Per year” means “per calendar year”.
- ~~21.5~~ 1.9 “Public office” means any office voted for in this state at any election. “Public office” does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office in a political party.
- ~~21.6~~ 1.10 “Publicly announced an intention to seek election to public office or retention of a judicial office” means that a person has made a statement signifying an interest in the office by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public. Such statement includes a stated intention to explore the possibility of seeking an office. The registration of a candidate committee shall also constitute a public announcement of an intention to seek election or retention. [Article XXVIII, Section 2 (2)]
- ~~21.7~~ 1.11 A registered agent or a committee or party treasurer for the purposes of Title 1, Article 45, shall be an individual or candidate designated to receive mailings and to address concerns and/or questions regarding the candidate committee, the political committee, the small donor committee, the issue committee, or the political party. [1-45-108 (3) (b) and 1-45-109 (4) (b)]
- ~~21.8~~ 1.12 “Signature”, for purposes of any report filed electronically with the secretary of state, means the committee’s identification number and password, and “signing” means the electronic transmission of the committee’s identification number and the authorized password to the Secretary of State with the report being filed.

~~22.~~ 2. **Committee Registration**

~~22.1~~ 2.1 When a committee registration form is received by the secretary of state's office, an identification number will be assigned and a letter of acknowledgement will be sent to the registered agent on file informing him/her of the identification number. [1-45-108 (3) through (6)]

~~22.2~~ 2.2 A candidate may serve as the candidate committee's registered agent or appoint someone to be the registered agent. The candidate and THE registered agent shall sign the candidate committee registration form, and only the registered agent or the candidate may sign the contribution and expenditure report. [1-45-108 (3) (b)]

~~22.3~~ 2.3 The purpose or nature of interest of the committee or party shall be included. A candidate committee shall identify the specific elective office sought upon registration.

~~22.4~~ 2.4 An issue committee may support or oppose more than one issue without having to open numerous campaign accounts and file numerous committee registration forms if the following conditions are met: the specific issues are included on the committee registration form; no generic phraseology is used (i.e.: Support or oppose issues ~~effecting~~ AFFECTING the basic rights of cattle); and the registration form states whether the committee will be supporting or opposing said issue. [Article XXVIII, Section 2 (10) (a) (I)]

2.5 ~~—2.5~~ ISSUE COMMITTEES ~~SHALL MAY ONLY ACCEPT OR MAKE CONTRIBUTIONS OR EXPENDITURES THAT SUPPORT OR OPPOSE ONE OR MORE BALLOT ISSUES OR BALLOT QUESTIONS. NOT CONTRIBUTE TO POLITICAL PARTIES, POLITICAL COMMITTEES, CANDIDATE COMMITTEES OR ISSUE COMMITTEES THAT SUPPORT OR OPPOSE ISSUES OTHER THAN THOSE SUPPORTED BY THE ISSUE COMMITTEE MAKING THE CONTRIBUTION.~~ [ARTICLE XXVIII, SECTION 2 (10) (b)].

*Comment: This change is in response to comments from Office of Legislative Legal Services.*

~~22.5~~ 2.6 Political committees ~~SHALL may only accept or make contributions or expenditures that support or oppose the nomination or election of one or more candidates. NOT CONTRIBUTE TO ISSUE COMMITTEES OR POLITICAL COMMITTEES THAT SUPPORT OR OPPOSE CANDIDATES OTHER THAN THOSE SUPPORTED BY THE POLITICAL COMMITTEE MAKING THE CONTRIBUTION.~~ [Article XXVIII, Section 2 (12) (a)]

*Comment: This change is in response to comments from Office of Legislative Legal Services.*

~~22.6~~ 2.7 A political committee that is subject to reporting pursuant to both Section 1-45-108 and the "Federal Election Commission Act of 1971" shall register with the appropriate officer but shall not be required to file disclosure reports if copies of the

reports required to be filed with the Federal Election Commission pursuant to the “Federal Election Commission Act of 1971”, as amended, are filed with the appropriate officer or are electronically available in the office of the appropriate officer and if such reports include the information required by this section.

- ~~22.7~~ 2.8 A corporation may establish both a political committee and a small donor committee. Each committee is subject to the individual contribution and expenditure limits for that committee. [Article XXVIII, Section 2 (14) (b)]

~~23.~~ 3. **Responsibilities of Candidate, Issue, and Political Committees and Political Parties**

- ~~23.1~~ 3.1 Whenever any of the information disclosed on the committee registration form changes, the change must be reported within five days by filing an amended committee registration form with the secretary of state. When filing an amendment to the committee registration form, a new form should be completed that includes any updated information. The form must be signed by the registered agent, and, if for a candidate committee, the candidate must also sign the form. [1-45-108 (3)]

- ~~23.2~~ 3.2 A candidate committee that changes elective office sought shall terminate the existing candidate committee and register a new candidate committee not later than five days after such change. If the new elective office is for a state candidate, then all contributions received shall be applicable to contribution limits and restrictions set forth in Article XXVIII, Section 3 for the new office.

- ~~23.3~~ 3.3 A committee may terminate if the following conditions are met: the candidate or committee no longer intends to receive contributions or make expenditures; a zero balance is achieved by having no cash on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. A termination statement may be filed at any time. [Article XXVIII Section 2(3) and 1-45-106]

- 3.4 A POLITICAL COMMITTEE MAY CHANGE STATUS TO A SMALL DONOR COMMITTEE WITHOUT TERMINATING THE POLITICAL COMMITTEE IF THE POLITICAL COMMITTEE ~~DID NOT~~ HAS NEVER ACCEPTED CONTRIBUTIONS OVER THE AMOUNT OF \$50 PER NATURAL PERSON PER YEAR ~~AT ANY TIME~~.

- 3.5 UNEXPENDED CAMPAIGN CONTRIBUTIONS TO A CANDIDATE COMMITTEE MAY BE CONTRIBUTED TO A CANDIDATE COMMITTEE ESTABLISHED BY THE SAME CANDIDATE FOR A DIFFERENT PUBLIC OFFICE, SUBJECT TO THE LIMITATIONS SET FORTH IN ARTICLE XXVIII, SECTION 3(3)(e), IF THE CANDIDATE COMMITTEE MAKING SUCH A CONTRIBUTION IS AFFIRMATIVELY CLOSED BY THE CANDIDATE NO LATER THAN TEN DAYS AFTER THE DATE SUCH A CONTRIBUTION IS MADE.

- 3.6 UNEXPENDED CAMPAIGN CONTRIBUTIONS TO LOCAL CANDIDATE COMMITTEES MAY NOT BE CONTRIBUTED TO A STATE CANDIDATE COMMITTEE.

- ~~24.~~ 4. **Disclosure – Contributions and Expenditures**
- ~~24.1~~ 4.1 All committees must keep a record of all contributions. All contributions received of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other receipts and contributions under \$20 may be reported in total as non-itemized contributions for the reporting period. ~~–~~[1-45-108 (1)]
- ~~24.2~~ 4.2 Contributions – when counted.
- a. A contribution is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution by check, the date accepted is the date that the check is deposited into the committee’s or party’s account.
- b. However, for purposes of Section 1-45-105.5, concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.
- ~~24.3~~ 4.3 All committees must keep a record of all expenditures. All expenditures made of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other expenditures under \$20 during a reporting period may be reported in total as non-itemized expenditures. [1-45-108 (1)]
- ~~24.4~~ 4.4 All loans received by a committee or party must be reported continuously until repaid. [Article XXVIII, ~~Section 3 (1) and~~ Section 3 (8)]
- ~~24.5~~ 4.5 Contributions by candidate – voluntary spending limits.
- a. Contributions to a candidate’s own committee by a candidate who does not accept voluntary spending limits shall not be subject to the contribution limits of Article XXVIII, Section 3.
- b. Contributions to a candidate’s own committee by a candidate who does accept voluntary spending limits shall be counted toward the limit on political party contributions set forth in Article XXVIII, Section 3 (3) (d), and Section 4 (2).
- ~~24.6~~ 4.6 Pursuant to the decision of the United ~~State~~ STATES Supreme Court in the case of *Buckley v. American Constitutional Law Foundation, Inc.*, 520 U.S. 182, 119 S.Ct., 636 (1999), an issue committee that makes an expenditure of \$20 or more in payment to a petition circulator is not required to disclose the name of the paid circulator. Instead, it is sufficient to list “payment to petition circulator” and the date and amount of the payment. [1-40-121 (1)]
- ~~24.7~~ 4.7 A candidate or the candidate’s candidate committee may accept only the aggregate contribution limit for a primary election prior to the primary election. The aggregate contribution limit for the general election may not be accepted prior to the day following the primary election in which the candidate is nominated to the general election ballot. ~~–~~[Article XXVIII, Section 3 (1)]

- 4.7 [ALTERNATIVE] STATE CANDIDATE COMMITTEES MAY ACCEPT THE MONETARY LIMIT FOR THE PRIMARY AND GENERAL CONTRIBUTIONS FROM A PERSON, INCLUDING A POLITICAL COMMITTEE, AT THE SAME TIME. HOWEVER, EACH CONTRIBUTION MUST BE GIVEN SEPARATELY (ONE CHECK WRITTEN FOR THE PRIMARY AND ONE CHECK WRITTEN FOR THE GENERAL) AND SO NOTED BY THE CONTRIBUTOR. THE REGISTERED AGENT SHALL MAKE THE SAME NOTATION ON THE CONTRIBUTION AND EXPENDITURE REPORT IN WHICH THE CONTRIBUTIONS WERE RECEIVED. THOSE CONTRIBUTIONS RECEIVED AND ACCEPTED ON BEHALF OF THE GENERAL ELECTION MAY NOT BE DISBURSED UNTIL THE DAY AFTER THE PRIMARY FOR USE IN THE GENERAL ELECTION. IF A CANDIDATE OR THE CANDIDATE COMMITTEE HAS A DEFICIT AFTER THE PRIMARY ELECTION, THE CANDIDATE MAY ACCEPT CONTRIBUTIONS TO BE APPLIED TO THE DEFICIT REMAINING FROM THAT PREVIOUS ELECTION. THE CONTRIBUTIONS MUST NOT EXCEED THE AGGREGATE CONTRIBUTION LIMIT FOR THAT CONTRIBUTOR IF FOR A STATE CANDIDATE. ALL CONTRIBUTIONS RECEIVED THAT ARE DESIGNATED FOR A PREVIOUS ELECTION DEFICIT MUST NOT EXCEED THAT DEFICIT. A DEFICIT REMAINS FROM A PREVIOUS ELECTION IF THE POST-ELECTION CONTRIBUTION AND EXPENDITURE REPORT INDICATES A DEFICIT. [ARTICLE XXVIII, SECTION 3(1)]

*Comment: This is essentially the same rule that was used under Amendment 15, as the language is essentially the same as Amendment 15.*

- 24.8 4.8 Expenditures made by a candidate will be considered both a contribution to and an expenditure by the candidate's candidate committee unless the expense is reimbursed. Any expenditure reimbursed to the candidate by the candidate's candidate committee must be reimbursed within the same reporting period in which the expenditure was made, and such expenditure shall then be considered only an expenditure made by the candidate's candidate committee. **Nothing in this Rule 4.8 shall be construed to imply that contributions to a candidate's own committee by a candidate are counted for purposes of the contribution limits of Article XXVIII, Section 3.**
- 4.9 CANDIDATE COMMITTEES MAY SHARE EXPENDITURES FOR COSTS OF BROCHURES, OFFICES, OFFICE EQUIPMENT, ETC. IF EACH CANDIDATE COMMITTEE PAYS FOR ITS PROPORTIONATE COST OF THE EXPENSE. IF ONE CANDIDATE COMMITTEE PAYS THE ENTIRE COST, THE REIMBURSEMENT BY THE OTHER CANDIDATE COMMITTEE(S) SHALL BE MADE WITHIN THIRTY (30) DAYS. SUCH REIMBURSEMENT IS NOT A "CONTRIBUTION" FROM ONE COMMITTEE TO THE OTHER; IT SHALL BE REPORTED AS AN EXPENDITURE BY THE REIMBURSING COMMITTEE AND AS A RETURNED EXPENDITURE BY THE REIMBURSED COMMITTEE.
- 24.9 4.10 Any contributions received in excess of contribution limits shall be ~~remitted~~ RETURNED to the contributor within ten business days. IF OCCUPATION AND EMPLOYER INFORMATION AS REQUIRED BY ARTICLE XXVIII, SECTION 7 IS NOT PROVIDED, AND THE COMMITTEE IS UNABLE TO GATHER THE INFORMATION WITHIN 30 DAYS, THE CONTRIBUTION SHALL BE RETURNED.
- 4.11 **[ALTERNATIVE #1]** THE FOLLOWING RULES RELATE TO ARTICLE XXVIII, SECTION 3 (3) (e), CONCERNING THE COUNTING AND REPORTING OF UNEXPENDED CAMPAIGN CONTRIBUTIONS RETAINED FOR USE IN A SUBSEQUENT ELECTION CYCLE:

- a. A CANDIDATE COMMITTEE IS NOT REQUIRED TO LIST SUCH RETAINED AMOUNTS EXPRESSLY ON DISCLOSURE REPORTS AS “CONTRIBUTIONS FROM A POLITICAL PARTY” OR AS CONTRIBUTIONS FROM ANY SPECIFIC POLITICAL PARTY.
- b. IF A CANDIDATE COMMITTEE DOES NOT LIST SUCH RETAINED AMOUNTS AS CONTRIBUTIONS FROM A SPECIFIED POLITICAL PARTY OR PARTIES, THEN SUCH RETAINED AMOUNTS SHALL BE DEEMED TO BE CONTRIBUTIONS FROM THE POLITICAL PARTY WITH WHICH THE CANDIDATE IS AFFILIATED, IF ANY. IF THE CANDIDATE IS NOT AFFILIATED WITH ANY POLITICAL PARTY, THEN SUCH RETAINED AMOUNTS SHALL NOT BE DEEMED TO BE CONTRIBUTIONS FROM ANY POLITICAL PARTY, EVEN IF THE CANDIDATE WAS ENDORSED BY OR OTHERWISE SUPPORTED BY ONE OR MORE POLITICAL PARTIES.
- c. A CANDIDATE COMMITTEE MAY ELECT TO LIST SUCH RETAINED AMOUNTS EXPRESSLY AS CONTRIBUTIONS FROM ONE OR MORE POLITICAL PARTIES. A CANDIDATE COMMITTEE MAY ONLY LIST THE POLITICAL PARTY WITH WHICH THE CANDIDATE IS AFFILIATED, A POLITICAL PARTY THAT FORMALLY ENDORSED THE CANDIDATE COMMITTEE’S CANDIDATE FOR THE ELECTIVE OFFICE SOUGHT, OR A POLITICAL PARTY THAT MADE A CONTRIBUTION DIRECTLY TO THE CANDIDATE COMMITTEE DURING THE ELECTION CYCLE. IF MORE THAN ONE POLITICAL PARTY IS LISTED, THE CANDIDATE COMMITTEE SHALL LIST THE AMOUNTS TO BE ATTRIBUTED TO EACH, USING ANY REASONABLE METHOD, INCLUDING RELATIVE AMOUNTS OF CONTRIBUTIONS ACTUALLY RECEIVED DIRECTLY FROM EACH POLITICAL PARTY OR RELATIVE NUMBERS OF ELECTORS REGISTERED WITH EACH POLITICAL PARTY WITHIN THE DISTRICT.
- d. ANY AMOUNTS EXPENDED DURING THE SUBSEQUENT ELECTION FOR PURPOSES PERMITTED BY SECTION 1-45-106 AND NOT IN FURTHERANCE OF THE CANDIDATE’S CANDIDACY FOR THE PURPOSES OF SECTION 2(15) OF ARTICLE XXVIII SHALL BE ~~DEDUCTED~~—EXCLUDED FROM THE RETAINED AMOUNT OTHERWISE TO BE COUNTED AS CONTRIBUTIONS FROM A POLITICAL PARTY. IN SUCH CASE, IF THE CANDIDATE COMMITTEE PREVIOUSLY LISTED THE RETAINED AMOUNT EXPRESSLY AS CONTRIBUTIONS FROM ONE OR MORE POLITICAL PARTIES, THEN THE CANDIDATE COMMITTEE SHALL FILE AN AMENDED DISCLOSURE REPORT.

4.11 [ALTERNATIVE #2] THE FOLLOWING RULES RELATE TO ARTICLE XXVIII, SECTION 3 (3) (e), CONCERNING THE COUNTING AND REPORTING OF UNEXPENDED CAMPAIGN CONTRIBUTIONS RETAINED FOR USE IN A SUBSEQUENT ELECTION CYCLE.

- a. A CANDIDATE COMMITTEE SHALL NOT LIST SUCH RETAINED AMOUNTS EXPRESSLY ON DISCLOSURE REPORTS AS “CONTRIBUTIONS FROM A POLITICAL PARTY” OR AS CONTRIBUTIONS FROM ANY SPECIFIC POLITICAL PARTY.
- b. IF THE AMOUNT RETAINED IS GREATER THAN THE LIMIT ON CONTRIBUTIONS FROM A POLITICAL PARTY SPECIFIED IN SECTION 3 (3) (d), THEN WITHIN THE FIRST TEN DAYS OF THE SUBSEQUENT ELECTION CYCLE THE EXCESS SHALL BE DISTRIBUTED FOR ANY LAWFUL PURPOSE OTHER THAN BY EXPENDITURE IN FURTHERANCE OF THE CANDIDACY OF THE CANDIDATE COMMITTEE’S CANDIDATE. IF AND ONLY IF SUCH EXCESS IS NOT SO DISTRIBUTED, THEN THE EXCESS SHALL BE CONSIDERED AS A CONTRIBUTION IN EXCESS OF THE LIMIT ON



POLITICAL PARTY CONTRIBUTIONS SPECIFIED IN SECTION 3 (3) (d) BY THE PARTY WITH WHICH THE CANDIDATE COMMITTEE'S CANDIDATE IS AFFILIATED, IF ANY.

- c. IF THE AMOUNT RETAINED IS LESS THAN OR EQUAL TO THE LIMIT ON CONTRIBUTIONS FROM A POLITICAL PARTY SPECIFIED IN SECTION 3 (3) (d), THEN THE TOTAL OF ALL POLITICAL PARTY CONTRIBUTIONS TO THE CANDIDATE COMMITTEE DURING THE SUBSEQUENT ELECTION CYCLE SHALL NOT EXCEED THE DIFFERENCE BETWEEN THE AMOUNT RETAINED AND THE LIMIT ON POLITICAL PARTY CONTRIBUTIONS. AT SUCH TIME AS THE TOTAL AMOUNT OF ALL POLITICAL PARTY CONTRIBUTIONS TO THE CANDIDATE COMMITTEE DURING THE SUBSEQUENT ELECTION CYCLE EQUALS OR EXCEEDS THE DIFFERENCE BETWEEN THE RETAINED AMOUNT AND THE LIMIT ON POLITICAL PARTY CONTRIBUTIONS, THEN ANY SUBSEQUENT OR ADDITIONAL CONTRIBUTION BY A POLITICAL PARTY TO THE CANDIDATE COMMITTEE DURING THE SUBSEQUENT ELECTION CYCLE SHALL CONSTITUTE A VIOLATION OF SECTION 3 (3) (d).

*Comment: Alternative #2 is based approximately on the interpretation of section 3 (3) (e) by the administrative law judge in the complaint of Mac Williams against Senator Ron Teck, Case No. 2003-022, decided 11-20-03.*

- 4.12 FOR PURPOSES OF COMPLYING WITH THE REQUIREMENT OF ARTICLE XXVIII, SECTION 5, THAT A NOTICE OF INDEPENDENT EXPENDITURE INCLUDE "A DETAILED DESCRIPTION OF THE USE OF SUCH INDEPENDENT EXPENDITURE", SUCH NOTICE IS SUFFICIENT IF IT INCLUDES AN IDENTIFICATION OF THE PAYEE OF THE EXPENDITURE, THE MEDIUM USED FOR THE COMMUNICATION, THE DATE OR DATES FOR BROADCAST, DELIVERY, OR PUBLICATION OF THE COMMUNICATION, AND EITHER THE COMPLETE WRITTEN TEXT OR TRANSCRIPT OF THE COMMUNICATION PRODUCED BY THE EXPENDITURE OR A SUMMARY OF THE MAJOR POINTS CONTAINED WITHIN THE COMMUNICATION.

- 4.13 A CANDIDATE WHO DOES NOT ACCEPT CONTRIBUTIONS BUT WHO EXPENDS MONEY FOR CAMPAIGN PURPOSES SHALL FILE DISCLOSURE REPORTS IN ACCORDANCE WITH SECTION 1-45-109.

*Comment: This rule was taken out of previous rules and is necessary for those candidates who do not accept contributions. It was originally adopted May 8, 2000 as Rule 24.9. The explanation stated at the time was as follows:*

*Comment: A candidate who does not accept contributions does not meet the definition of "candidate committee" in section 1-45-103 (2), which requires both contributions and expenditures to satisfy the definition. Therefore, it could be argued that a candidate who expends only his or her own personal funds is not required to file disclosure reports by section 1-45-108 (1), which requires disclosure reports from "candidate committees" but not "candidates". Furthermore, a candidate cannot make an "expenditure" as that term is defined in the FCPA except through a candidate committee, since "expenditure" is defined by section 1-45-103 (6) to mean a payment of money by a committee. However, section 1-45-109, which specifies where reports should be filed "for purposes of meeting the filing and reporting requirements" of the FCPA, expressly applies to "candidates" as well as to their "candidate committees". Therefore, it is presumed that disclosure reports must be filed by candidates as well as candidate committees. However, no report should be*



*required of a candidate who neither accepts contributions nor expends any funds. This reading of the FCPA is consistent with the principle of full disclosure and “strong enforcement of campaign laws” as expressed by the legislative declaration in section 1-45-102.*

*Unlike the situation in 2000 when Rule 24.9 was adopted, the definition of “candidate committee” now requires only contributions **or** expenditures. Thus, a candidate who expends only his or her own personal funds will have to report, even though the person accepts no contributions. The office still gets this question a lot, and it is a succinct statement to refer to.*

~~25.~~ 5. **Filing Dates and Reporting Periods**

~~25.1~~ 5.1 Quarterly reporting periods close on the last day of the month. The report shall be filed on or before April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup> and January 15<sup>th</sup> - following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108 (2)(a)]

~~25.2~~ 5.2 Monthly reporting periods close five calendar days prior to the last day of the month. The report shall be filed on or before the first calendar day of the following month. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. When the filing deadline for a monthly report approximates the filing deadline for a biweekly report, no separate monthly report shall be filed, and the biweekly report shall serve as the monthly report. [1-45-108 (2) (a) and (c)]

~~25.3~~ 5.3 The reporting period for biweekly reports required by Section 1-45-108 (2) (a) (I) (B) and (D) closes on the Wednesday preceding the due date. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108 (2) (a)]

~~25.4~~ 5.4 The post-election reporting period closes on the last day of the calendar month in which the election was held. The report shall be filed on or before the 30<sup>th</sup> day following the election. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108 (2) (a)]

~~25.5~~ 5.5 Reports filed electronically.

a. Reports filed electronically are due two days after the due date for reports filed manually, after taking into account any extension of the due date of a manually filed report because the filing deadline falls on a Saturday, Sunday, or legal holiday. If the filing deadline for a report filed electronically falls on a Saturday, Sunday, or legal holiday, the deadline is not extended to the next business day. Reports filed electronically before midnight shall be considered filed on that day.

b. If the electronic filing system is unavailable for filing for a total of more than one hour after 4:00 p.m. on the due date for electronically filed reports, the secretary of state may extend the due date for an additional day. [1-45-108 (2.3), 1-45-109 (6)]

~~25.6~~ 5.6 The reporting period for any quarterly, monthly, or biweekly report begins on the first day following the last day of the reporting period for the previous report filed with the secretary of state. [1-45-108 (2) (c)]

- ~~25.7~~ 5.7 Special district elections.
- a. For reports relating to special district elections that are required to be filed with the county clerk and recorder, reports shall be required only on the 21<sup>st</sup> day prior to, and on the Friday prior to, and on the 30<sup>th</sup> day after the date of the regular election.
  - b. Reports relating to special district elections that are required to be filed with the secretary of state shall be subject to quarterly, monthly, and biweekly reporting as provided in Section 1-45-108 (2) (a) (I) if the major elections for such special district occur on the date of the general election. If the major elections for such special district occur at any other time, then reports shall be required only on the 21<sup>st</sup> day prior to, on the Friday prior to, and on the 30<sup>th</sup> day after the date of the regular election.
- ~~25.8~~ 5.8 The reporting period for any report that is required to be filed with the county clerk and recorder shall close five calendar days prior to the date that the report is due.
- ~~25.9~~ 5.9 For purposes of Section 1-45-108 (2) (d), which exempts a candidate committee for a former officeholder or person not elected to office from reporting if there is no change in the balance of funds maintained by such committee and if certain other conditions are met, a change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject such candidate committee to the reporting requirements of Section 1-45-108, except that such candidate committee shall file an annual report for each calendar year not later than January 15<sup>th</sup> of the following year. CANDIDATE COMMITTEES THAT CHOOSE THIS OPTION MUST NOTIFY THE FILING OFFICER OF THEIR INTENT. [1-45-108 (2) ~~(c)~~ AND (2) ~~(d)~~ (d)]
- ~~25.10~~ 5.10 If a required report is not filed by the close of business on the due date for electronic filing, then the daily penalty imposed pursuant to Article XXVIII, Section 10 (2) (a) shall begin on the day following the due date for reports filed manually.
- ~~25.11~~ 5.11 County political party organizations shall file required reports pursuant to Section 1-45-108 (2) (a) (II) with the county clerk and recorder for their jurisdiction. State political party organizations shall file required reports pursuant to Section 1-45-108 with the secretary of state.
- ~~26.~~ 6. **Violations and Complaints**
- ~~26.1~~ 6.1 If the secretary of state discovers a possible violation of Article XXVIII or Title 1, Article 45, and no complaint alleging such violation has been filed with the secretary of state pursuant to Article XXVIII, Section 9 (2) (a), then the secretary of state shall:
- a. Provide the person believed to have committed the violation with written notice of the facts or conduct that constitute the possible violation, and

- b. Allow the seven business days to correct the violation or to submit written statements explaining the reasons that support a conclusion that a violation was not committed.
- ~~26.2~~ 6.2 If, within the time allotted pursuant to Rule 26.1, the person fails to correct the violation ~~of~~ OR to offer a satisfactory explanation, then the secretary of state shall file a complaint pursuant to Article XXVIII, Section 9 (2) (a).
- ~~26.3~~ 6.3 A written complaint filed with the secretary of state pursuant to Article XXVIII, Section 9 (2) (a) shall include the following: the name, address, and signature of the complainant; the name and address of each respondent alleged to have committed a violation; and the particulars of the violation. If the complaint is complete, the secretary of state shall promptly transmit the complaint to the Division of Administrative Hearings in the Department of Personnel and Administration for the consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9 (2) (a)]
- ~~27.~~ 7. **Applicability of Constitutional and Statutory Provisions to Local Offices and Home Rule Elections**
- ~~27.1~~ 7.1 The requirements of Article XXVIII of the State Constitution and of Article 45 of Title 1, Colorado Revised Statutes, shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Article 45.
- ~~27.2~~ 7.2 The provisions of Section 3 (4) of Article XXVIII of the State Constitution relating to contributions and expenditures of corporations and labor unions apply to elections to every state and local public office, except local public offices in home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Article 45.
- ~~27.3~~ 7.3 The provisions of Section 1-45-105.5, relating to a prohibition on lobbyist contributions to members of the General Assembly during legislative sessions, apply to members of the General Assembly who are candidates for any state or local office, including any office in home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Article 45.
- ~~27.4~~ 7.4 A political party, as defined in Section 2 (13) of Article XXVIII of the State Constitution, at the level of a home rule county or home rule municipality that has adopted a charter, ordinance, or resolution that addresses any of the matters covered by Article XXVIII or Article 45, may establish a separate account that is used solely for contributions made to the party, and expenditures made by the party, for the purpose of supporting the party's candidates for offices within the county or municipality. Contributions to and expenditures from such account shall not be included for purposes of any limitations or reporting contained in Article XXVIII or Article 45.